

MONTANA LEGISLATIVE HISTORY

Chapter 473 1999

Bill H 245 S _____

Original bill & history c

H. Committee on Bus & Labor

Hearing Date(s) _____ c

1/21 ✓ c

_____ c

1/26 ✓ c

Date Out

1/26 ✓ c

S. Committee on Bus & Industry

Hearing Date(s) _____ c

3/3 ✓ c

_____ c

_____ c

out 3/3 ✓

Did this bill originate in an interim committee? _____ Yes No

Committee _____

Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

HOUSE BILLS AND RESOLUTIONS

437

3/23	Hearing		
3/24	Committee Executive Action--Bill Concurred	8	0
3/24	Committee Report--Bill Concurred		
3/26	2nd Reading Concurred	48	0
3/27	3rd Reading Concurred	45	4
	Returned to House		
3/27	Sent to Enrolling		
3/29	Returned from Enrolling		
3/29	Signed by Speaker		
3/30	Signed by President		
3/31	Transmitted to Governor		
4/05	Signed by Governor		
4/06	Chapter Number Assigned		
	Chapter Number 233		
	Effective Date: 7/01/1999 - All Sections		

HB 245 Introduced by Simon

LC0270 Drafter: Maly

Implement Recommendations of the Affordable Housing and Land Use Initiative;...

1/11	Introduced and 1st Reading		
1/11	Referred to Business and Labor		
1/11	Fiscal Note Requested		
1/18	Fiscal Note Received		
1/20	Fiscal Note Signed		
1/20	Fiscal Note Printed		
1/21	Hearing		
1/26	Committee Executive Action--Bill Passed as Amended	18	0
1/27	Committee Report--Bill Passed as Amended		
1/29	2nd Reading Passed	71	26
1/30	3rd Reading Passed	71	24
	Transmitted to Senate		
2/01	Referred to Business and Industry		
3/03	Hearing		
3/03	Committee Executive Action--Bill Concurred	7	0
3/04	Committee Report--Bill Concurred		
3/05	2nd Reading Concurred	35	15
3/06	3rd Reading Concurred	35	13
	Returned to House		
3/08	Sent to Enrolling		
3/08	Returned from Enrolling		
3/09	Signed by Speaker		
3/10	Signed by President		
3/10	Transmitted to Governor		
3/15	Returned to House with Governor's Proposed Amendments		
4/14	2nd Reading Governor's Proposed Amendments Concurred	99	0
4/15	3rd Reading Governor's Proposed Amendments Concurred	89	9
4/15	Transmitted to Senate for Consideration of Governor's Proposed Amendments		
4/15	2nd Reading Governor's Proposed Amendments Concurred	50	0
4/16	3rd Reading Governor's Proposed Amendments Concurred	39	11
4/16	Sent to Enrolling		

4/19 Returned from Enrolling
 4/20 Signed by Speaker
 4/21 Signed by President
 4/22 Transmitted to Governor
 4/27 Signed by Governor
 4/29 Chapter Number Assigned
 Chapter Number 473
 Effective Date: 10/01/1999 - All Sections

HB 246 Introduced by Peck, et al. *LC0675 Drafter: B. Campbell*

Generally Revise the Distribution of District Court Funds to Counties;...

11/24 Fiscal Note Needed
 1/11 Introduced and 1st Reading
 1/11 Referred to Appropriations
 1/11 Fiscal Note Requested
 1/15 Fiscal Note Received
 1/15 Fiscal Note Signed
 1/15 Fiscal Note Printed
 1/21 Hearing
 1/26 Tabled in Committee
 3/26 Missed Deadline for Appropriation Bill Transmittal

HB 247 Introduced by Harrington, et al. *LC0498 Drafter: McClure*

Require Payment of Wages and Benefits to Noncertified School Employees During Emergency School Closures;...

11/13 Fiscal Note Needed
 1/11 Introduced and 1st Reading
 1/11 Referred to Business and Labor
 1/11 Fiscal Note Requested
 1/19 Fiscal Note Received
 1/21 Fiscal Note Printed
 1/21 Hearing
 1/28 Committee Executive Action--Bill Passed 12 6
 1/29 Committee Report--Bill Passed
 2/08 2nd Reading Pass as Amended Motion Failed 48 51

HB 248 Introduced by Harrington, et al. *LC0497 Drafter: Heiman*

Clarify That the Provision of Water and Sewer Utility Services by a Municipality or a District to Industrial and Commercial Users Does Not Constitute a Beneficial Use in the Utility Service by the Industrial or Commercial User;...

1/11 Introduced and 1st Reading
 1/11 Referred to Taxation
 1/11 Fiscal Note Requested
 1/19 Fiscal Note Received
 1/20 Fiscal Note Signed
 1/20 Hearing
 1/21 Fiscal Note Printed
 1/28 Committee Executive Action--Bill Passed as Amended 19 1
 1/29 Committee Report--Bill Passed as Amended
 2/02 2nd Reading Passed 89 10
 2/12 3rd Reading Passed 99 1

1

2 INTRODUCED BY

HB BILL NO. 245

(Primary Sponsor)

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING RECOMMENDATIONS OF THE AFFORDABLE
5 HOUSING AND LAND USE INITIATIVE; ESTABLISHING A BUILDING CODES COUNCIL; ESTABLISHING
6 A CONTINUING EDUCATION PROGRAM ADMINISTERED BY THE DEPARTMENT OF COMMERCE AND
7 FUNDED BY A PORTION OF INSPECTION FEES; MANDATING THE CREATION OF A CENTRAL REGISTRY
8 OF AUTHORITATIVE INTERPRETATIONS OF BUILDING CODES; PROVIDING FOR STATEWIDE APPROVAL
9 OF MODEL PLANS AND A CHECKLIST FOR THE EXAMINATION OF RESIDENTIAL CONSTRUCTION
10 PLANS; AND AMENDING SECTIONS 50-60-103, 50-60-106, 50-60-201, AND 50-60-301, MCA."

11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13

14 NEW SECTION. Section 1. Building codes council -- purpose and structure. (1) There is a building
15 codes council for the purpose of assisting the department with the application, implementation, and
16 interpretation of the state building code and building codes adopted by local governments. The council
17 shall work cooperatively with the department and with representatives of the construction industry as
18 well as members of the interested public to harmonize building codes and related rules with both the
19 needs of the construction industry and the public interest in efficiency, cost-effectiveness, and safety.

20 (2) The council consists of 11 members appointed by the governor, unless otherwise specified,
21 as follows:

22 (a) a practicing architect licensed in Montana;

23 (b) a practicing professional engineer licensed in Montana;

24 (c) a representative from the building contractor industry;

25 (d) a municipal building inspector;

26 (e) a representative of the manufactured housing industry;

27 (f) a member of the general public who does not hold public office and who does not represent
28 the same industry or agency as another council member;

29 (g) the director of the department of health and human services or the director's designee;

30 (h) a licensed electrician selected by the board of electricians;

1 (i) a licensed plumber selected by the board of plumbers;

2 (j) the state fire marshal or the fire marshal's designee; and

3 (k) a representative of the home building industry.

4 (3) The appointed council members serve at the pleasure of the governor for terms of 3 years.

5 (4) The council is allocated to the department for administrative purposes only as provided in
6 2-15-121.

7 (5) The council and its members are entitled to compensation as provided in 2-15-122.

8
9 NEW SECTION. Section 2. Continuing education -- funding support from fees. (1) There is a
10 building codes education program administered by the department for the purpose of providing continuing
11 education in building code standards and other related topics to interested persons in the construction
12 industry and in regulatory agencies of state and local government.

13 (2) The building codes education program must be funded entirely from fee revenue collected by
14 the department, and the department shall allocate 0.5% of the fees that the department collects pursuant
15 to 50-60-104 to a special account to pay the costs of conducting courses and seminars at multiple
16 locations in the state.

17 (3) The department may expend the funds referred to in subsection (2) to contract with the
18 cooperative extension service, the extended studies programs, other appropriate units of the Montana
19 university system, or private sector entities to develop and conduct the building codes education program.

20
21 NEW SECTION. Section 3. Building code interpretations -- central registry. (1) The department
22 shall, in cooperation with the Montana chapter of the international conference of building officials, develop
23 a process and procedure for:

24 (a) achieving, to the greatest extent possible, knowledge and acceptance of the department's
25 interpretations by affected parties;

26 (b) publishing the department's interpretations of building code provisions in a manner that makes
27 the interpretations easily accessible to and obtainable by the public by paper copy and by electronic
28 means; and

29 (c) maintaining in a central registry easily accessed records of the published interpretations
30 provided for in subsection (1)(b).

(2) The department shall provide to the building codes council, established in [section 1], a comprehensive and up-to-date file of the department's interpretations of all building codes in use in Montana.

NEW SECTION. Section 4. Examination of residential plans -- statewide approval for model plans

-- fee adjustments -- mandatory checklist. (1) The department shall accept for examination and approval or disapproval all model construction plans for residential buildings submitted to the department.

(2) Once a model construction plan has been approved, the department shall indicate in writing on the approved plan that the plan is acceptable on a statewide basis and that no further examination is warranted except with respect to:

- (a) zoning;
- (b) footings;
- (c) curbs;
- (d) gutters;
- (e) landscaping;
- (f) utility connections;
- (g) street requirements;
- (h) sidewalks; and
- (i) other requirements specifically related to the exterior of the building.

(3) Local building departments shall reduce plan examination fees commensurate with the reduced time and effort expended resulting from the department's examination provided for in subsection (1).

(4) This section may not be construed to reduce the requirements for obtaining permits for onsite inspection of the residence under construction pursuant to 50-60-106.

(5) (a) The department shall develop a checklist for the examination of residential construction plans by the department and by the building code enforcement officials of municipalities and counties.

(b) The checklist must be based upon the most recently adopted edition of the council of American building officials One and Two Family Dwelling Code.

(c) The checklist is subject to review and amendment by the building codes council provided for in [section 1].

(d) The checklist must be made available to building contractors at no charge, and a building

1 contractor who uses the checklist and attaches it to the plans that the contractor submits to the
2 department or a municipality or county for examination is entitled to receive the relevant building permit
3 or notice of disapproval within 5 days of submission of the completed checklist.

4
5 **Section 5.** Section 50-60-103, MCA, is amended to read:

6 **"50-60-103. Administration by department.** The department shall administer parts 1 through 4
7 and for that purpose shall:

8 (1) issue orders necessary to effectuate the purposes of parts 1 through 4 and enforce the orders
9 by all appropriate administrative and judicial proceedings;

10 (2) enter, inspect, and examine buildings or premises necessary for the proper performance of
11 its duties under parts 1 through 4;

12 (3) study the operation of the state building code, local building regulations, and other laws
13 related to the construction of buildings to ascertain their effects upon the cost of building construction
14 and the effectiveness of their provisions for health and safety;

15 (4) recommend tests or require the testing and approval of materials, devices, and methods of
16 construction to ascertain their acceptability under the requirements of the state building code and issue
17 certification of ~~such~~ the acceptability;

18 (5) appoint experts, consultants, and technical advisers for assistance and recommendations
19 relative to the formulation and adoption of the state building code;

20 (6) advise, consult, and cooperate with other agencies of the state, local governments, industries,
21 and interested persons or groups; and

22 (7) consult with the building codes council, established in [section 1], on all rules and
23 interpretations of building code provisions and on the checklist for the examination of residential
24 construction plans provided for in [section 4]."

25
26 **Section 6.** Section 50-60-106, MCA, is amended to read:

27 **"50-60-106. Powers and duties of municipalities.** (1) The examination, approval, or disapproval
28 of plans and specifications, the issuance and revocation of building permits, licenses, certificates, and
29 similar documents, the inspection of buildings, and the administration and enforcement of building
30 regulations within the municipal jurisdictional area are the responsibility of the municipalities of the state.

(2) Each municipality or county certified under 50-60-302 shall, within its jurisdictional area:

(a) examine, approve, or disapprove plans and specifications for the construction of any building, the construction of which is pursuant or purports to be pursuant to the applicable provisions of the state or municipal building code, and direct the inspection of the buildings during and in the course of construction;

(b) require that construction of buildings be in accordance with the applicable provisions of the state or municipal building code, subject to the powers of variance or modification granted to the department;

(c) make available to building contractors at a price that is commensurate with reproduction costs a checklist devised by the department pursuant to [section 4] for one and two family dwellings and provide to contractors who attach a completed checklist to the plans submitted for examination the relevant building permit or notice of plan disapproval within 5 working days of the contractor's submission.

~~(c)~~(d) during and in the course of construction, order in writing the remedying of any condition found to exist in, on, or about any building that is being constructed in violation of the applicable state or municipal building code. Orders may be served upon the owner or ~~his~~ the owner's authorized agent personally or by sending by ~~registered~~ or certified mail a copy of the order to the owner or ~~his~~ the owner's authorized agent at the address set forth in the application for permission for the construction of the building. A local building department, by action of an authorized officer, may grant in writing ~~such~~ time as may be reasonably necessary for achieving compliance with the order. For the purposes of this subsection ~~(2)(c)~~ (2)(d), the phrase "during and in the course of construction" refers to the construction of a building until all necessary building permits have been obtained and the municipality or county has issued formal written approvals or has issued a certificate of occupancy for the building.

~~(d)~~(e) issue certificates of occupancy as provided in 50-60-107;

~~(e)~~(f) issue permits, licenses, and other required documents in connection with the construction of a building;

~~(f)~~(g) ensure that all construction-related fees or charges imposed and collected by the municipality or county are necessary, reasonable, and uniform and are:

(i) except as provided in subsection (2)(g)(iii), used only for building code enforcement, which consists of those necessary and reasonable costs directly and specifically identifiable for the enforcement

1 of building codes, plus indirect costs charged on the same basis as other local government proprietary
2 funds not paying administrative charges as direct charges. If indirect costs are waived for any local
3 government proprietary fund, they must also be waived for the program established in this section.
4 Indirect charges are limited to the charges that are allowed under federal cost accounting principles that
5 are applicable to a local government.

6 (ii) reduced if the amount of the fees or charges accumulates above the amount needed to enforce
7 building codes for 12 months. The excess must be placed in a reserve account and may only be used for
8 building code enforcement. Collection and expenditure of fees and charges must be fully documented.

9 (iii) allocated and remitted to the department, in an amount not to exceed 0.5% of the fees or
10 charges collected, for the building codes education program established in [section 2].

11 (3) Each municipality or county certified under 50-60-302 may, within its jurisdictional area:

12 (a) make, amend, and repeal rules for the administration and enforcement of the provisions of this
13 section and for the collection of fees and charges related to construction;

14 (b) prohibit the commencement of construction until a permit has been issued by the local building
15 department after a showing of compliance with the requirements of the applicable provisions of the state
16 or municipal building code; and

17 (c) enter into a private contract with the owner or builder of a building that is not or will not be
18 within the jurisdiction of the municipality or county under which the municipality or county will provide
19 reviews, inspections, orders, and certificates of occupancy for a fee and under conditions agreed upon
20 by the parties. Municipal or county powers of enforcement may not be exercised."

21

22 **Section 7.** Section 50-60-201, MCA, is amended to read:

23 "50-60-201. Purpose of state building code. The state building code must be designed to
24 effectuate the general purposes of parts 1 through 4 and the following specific objectives and standards
25 to:

26 (1) provide reasonably uniform standards and requirements for construction and construction
27 materials consistent with accepted standards of design, engineering, and fire prevention practices;

28 (2) permit to the fullest extent feasible the use of modern technical methods, devices, and
29 improvements that tend to reduce the cost of construction consistent with reasonable requirements for
30 the health and safety of the occupants or users of buildings and, consistent with the conservation of

1 energy, by design requirements and criteria that will result in the efficient use of energy, whether used
2 directly or in a refined form, in buildings;

3 (3) eliminate restrictive, obsolete, conflicting, and unnecessary building regulations and
4 requirements that tend to unnecessarily increase construction costs, unnecessarily prevent the use of
5 proven new materials that have been found adequate through experience or testing, or provide
6 unwarranted preferential treatment to types or classes of materials, products, or methods of construction;

7 (4) ensure that any newly constructed public buildings and certain altered public buildings are
8 readily accessible to and usable by persons with disabilities, according to the principles applicable to
9 accessibility to public buildings for persons with disabilities in the state building code;

10 (5) ensure statewide uniformity in the inspection and enforcement of exterior features of all newly
11 constructed public buildings and certain altered public buildings, including building sites, for physical
12 accessibility to people with disabilities;

13 (6) encourage efficiencies of design and insulation that enable buildings to be heated in the winter
14 with the least possible quantities of energy and to be kept cool in the summer without air conditioning
15 equipment or with the least possible use of the equipment;

16 (7) encourage efficiencies and criteria directed toward design of building envelopes with high
17 thermal resistance and low air leakage and toward requiring practices in the design and selection of
18 mechanical, electrical, and illumination systems that promote the efficient use of energy;

19 (8) provide, to the greatest extent possible and with the advice and consent of interested parties,
20 a broadly uniform system of building code interpretations for the purposes of predictability, fairness, and
21 efficiency."

22

23 Section 8. Section 50-60-301, MCA, is amended to read:

24 "50-60-301. Municipal and county building codes authorized -- health care facility and public
25 health center doors -- fee adjustment for model plans. (1) The local legislative body of a municipality or

26 county may adopt a building code by ordinance to apply to the municipal or county jurisdictional area.

27 (2) A municipal or county building code may include only codes adopted by the department.

28 (3) Any provision of a building code requiring the installation or maintenance of self-closing or
29 automatic closing corridor doors to patient rooms does not apply to health care facilities, as defined in
30 50-5-101, or to a public health center, as defined in 7-34-2102.

(4) (a) When the same residential plan is constructed at more than one site, the municipality or county shall, after the first examination of the plan, adjust the required plan fee to reflect only the cost of reviewing requirements pertaining to the review of:

(i) zoning;

(ii) footings;

(iii) curbs;

(iv) gutters;

(v) landscaping;

(vi) utility connections;

(vii) street requirements;

(viii) sidewalks; and

(ix) other requirements related specifically to the exterior of the building.

(b) If a building contractor alters the residential plan referred to in subsection (4)(a) in a fashion that substantially affects the building code requirements, the municipality or county may impose the full examination fee permitted under in 50-60-106."

NEW SECTION. **Section 9.** Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 50, chapter 60, part 1, and the provisions of Title 50, chapter 60, part 1, apply to [sections 1 through 4].

- END -

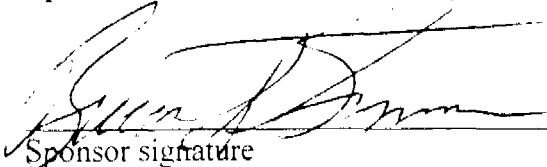
FISCAL NOTE

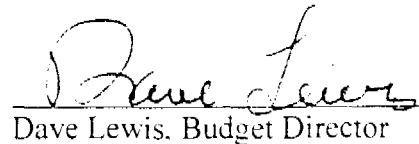
Bill #: HB0245

Title: Implement affordable housing land use initiative as related to building codes

Primary Sponsor: Bruce Simon

Status: As introduced


Sponsor signature _____ Date _____

 1-16-99
Dave Lewis, Budget Director _____ Date _____

Fiscal Summary

	<u>FY2000 Difference</u>	<u>FY2001 Difference</u>
Expenditures:		
State Special Revenue	\$27,200	\$27,200
Revenue:		
State Special Revenue	\$24,700	\$24,700
Net Impact on General Fund Balance:	\$0	\$0

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
X		Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

1. The continuing education classes noted in Section 2 will be conducted through a private contract with the university system or others, and the Department Commerce (DOC) would merely administer the fund and the contracts.
2. The state continuing education transfer of 0.5% will be based on building fees only. Based on FY98 revenues, the estimated annual contribution to the continuing education program fund is \$2,500.
3. The continuing education fee of 0.5% obtained from local government code enforcement programs will be based on FY98 local government building fees only, and is estimated to be \$24,700
4. The eleven member building codes council (Council), will have operating expenses of \$4,800 in both years of the biennium. That amount is derived by using the following parameters: there will be two meetings per year, each meeting lasting 2 days; only 8 members (the other 3 are government employees)

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(continued)

will receive transportation, meals, lodging and stipend payments averaging \$150 per day (assumes average of 400 round trip miles). Administrative support will be supplied by the DOC at no cost to the Council.

5. All revenues generated by the new state special revenue account will be expended.

FISCAL IMPACT:

	<u>FY2000 Difference</u>	<u>FY2001 Difference</u>
<u>Expenditures:</u>		
Operating Expenses	\$27,200	\$27,200
<u>Funding:</u>		
State Special Revenue (02)	\$27,200	\$27,200
<u>Revenues:</u>		
State Special Revenue (02)	\$24,700	\$24,700
<u>Net Impact to Fund Balance (Revenue minus Expenditure):</u>		
State Special Revenue (02)	(\$2,500)	(\$2,500)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Local governments will contribute \$24,700 to the state continuing education fund. However, the contribution may be considered pre-paid continuing education costs, thus having little or no fiscal impact.

In addition, the pre-approved plans provisions may result in a net loss of revenue to local governments that are required to reduce plan review fees on approved model plan construction. The total loss would be directly related to the number of units built annually with model plan approval in their jurisdictional area.

TECHNICAL NOTES:

1. The codification instructions in New Section 9 establish that the provisions contained in HB245, including the establishment of the Building Codes Council, are applicable to Parts 1 through 4 only of Title 50, Chapter 60, MCA. Therefore, as proposed the Building Codes Council would not address issues related to plumbing, electrical, boilers or elevators.
2. New Section 2(2) appears to establish the applicability of the funding source for continuing education to be collected only from those revenues, state and local, which are applicable to Parts 1 through 4 of Title 50, Chapter 60, MCA, and the 0.5% would not include plumbing, electrical, elevator or boiler fees. Further, it is the division's understanding that building fees only were to be affected; however, as written mechanical fees would also be included.
3. The term "residential" in New Section 4 is too broad, and as written would include hotels and motels and other large residential occupancies. The division thinks the term was intended to mean single family dwelling only, and therefore, the term "residential" should be replaced with the term "single family dwelling" in order to avoid confusion. Further, the term "footings" in New Section 4 is assumed to include basement and foundation walls. This term should also be clarified to avoid confusion.
4. Due to widely varying conditions (wind load, snow load, seismic zone, etc.) throughout the State of

(continued)

Montana, plans approved for single family dwellings will only be approved for use in the certain area for which they were designed and similar condition areas with the same conditions as noted on the plans. For example, a single family dwelling plan approval for Billings with a 30 psf snow load design and located in seismic zone 1 will not be acceptable for construction in West Yellowstone with a 137 psf snow load requirement and located in seismic zone 4, without revision.

5. The wording "as amended" needs to be added to New Section 4(5)(b), at the end of line 27, in order to clarify that the CABO One and Two Family Dwelling Code is presently and has for many years been amended to utilize only the structural and nonstructural portions of the code. Chapters 11 through 46 (inclusive) are deleted and the provisions of the Uniform Mechanical Code, Uniform Plumbing Code and National Electrical Code are used in lieu of the deleted CABO chapters.
6. The requirements in New Section 4 for the department's development of the "checklist" for model plan approval [or notice of disapproval within five (5) days] and the subsequent requirement for the department to make the "checklist" available to building contractors at no charge appears to be inequitable since local governments are afforded the opportunity to make the department's "checklist" available to building contractors at a price that is commensurate with reproduction costs.
7. Because of the codification instructions for this bill, the requirement for the department to consult with the Building Codes Council on all rules and interpretations of building code provisions appears to be limited to those matters contained in Parts 1 through 4, MCA and does not address other model code related matters (plumbing, electrical, elevator, boiler, etc.).
8. The term "interested parties" contained in New Section 7(8) is too broad and may go beyond the intended scope of HB245 as to which parties are to participate in the interpretation process. In addition, the term "consent" implies that an interpretation could not be issued without the approval of all interested parties, which makes the requirement impossible to comply with.
9. New Section 8 appears to allow local governments to include non-building code items (zoning, street requirements, sidewalks, etc.) in plan review and charge fees for these items.
10. New Section 2(2) states that the department must deposit the 0.5% of fees earmarked for the building codes education program to a special account to be used to pay the costs of conducting courses and seminars throughout the state. HB245 doesn't create a special account in which to deposit these funds. Although it is possible to create an administrative account, it would be better for all parties if the creation of the continuing education account were more clearly specified in statute.
11. More specificity as to when deposits to the continuing education account are to be made would allow program managers a better opportunity to manage cash flows and the scheduling of educational events.
12. Funding of the Building Codes Council is not specified in statute, nor is an operating appropriation for the 2001 biennium.

DEDICATION OF REVENUE:

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (please explain)

HB245 states that monies earmarked for the building codes education program are to be deposited into a special account that is not specified. For the purposes of this fiscal note it is assumed that an amendment would be offered creating a state special revenue account for the purposes specified in the bill. Monies paid from the account would be used to provide continuing education in building code standards and other related topics to interested persons in the construction industry and in regulatory agencies of state and local government.

(continued)

- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

HB245 specifies that monies earmarked for the building codes education program are to be deposited into a special account that is not specified. For the purposes of this fiscal note it is assumed that an amendment would be offered creating a state special revenue account for the purposes specified in the bill.

- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program activity that is intended? X Yes No (if no, explain)

- d) Does the need for this state special revenue provision still exist? X Yes No (Explain)

HB245 specifies that monies earmarked for the building codes education program are to be deposited into a special account.

- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please Explain)

No, the establishment of a SSR will not hinder the legislature's ability to scrutinize budgets, control expenditures or establish priorities. A SSR account will assist the legislature in the analysis of each of these items.

- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please Explain)

Yes, provided the legislature would continue to mandate state responsibility for the building codes education program.

- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please Explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)

The earmarked revenue provision, which is specified in the proposed legislation, would provide accounting efficiencies within the Department of Commerce. It would allow for the quick and accurate analysis of how effective and efficient the building codes educational program is. If this proposal were to be funded through the general fund it would be much more difficult to determine program effectiveness and efficiency.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on January 21, 1999 at
8:00 A.M., in Room 325 Capitol.

ROLL CALL

Members Present:

Rep. Bruce Simon, Chairman (R)
Rep. Bob Pavlovich, Vice Chairman (D)
Rep. Paul Sliter, Vice Chairman (R)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. David Ewer (D)
Rep. Carol C. Juneau (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Gay Ann Masolo (R)
Rep. Gary Matthews (D)
Rep. Joe McKenney (R)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 186, HB 216, HB 245, HB
247, HB 249, 1/18/1999
Executive Action: NONE

Proponents' Testimony:

Barbara Morris, Owner of Jorgenson's Bar.

{Tape : 4; Side : A; Approx. Time Counter : 68 - 81}

Sen. Devlin, SD 2.

{Tape : 4; Side : A; Approx. Time Counter : 81 - 100}

William Spilker

{Tape : 4; Side : A; Approx. Time Counter : 100 - 111}

Opponents' Testimony:

Jim Oppendal, Administrator of Gambling Division, Mt. Dept of Justice.

{Tape : 4; Side : A; Approx. Time Counter : 111 - 152}

Julie Ippilitto, Don't Gamble with the Future EXHIBIT(15)

{Tape : 4; Side : A; Approx. Time Counter : 152 - 187}

Questions from Committee Members and Responses: No Questions.

Closing by Sponsor: Rep. Pavlovich closed HB 216.

{Tape : 4; Side : A; Approx. Time Counter : 187 - 205}

HEARING ON HB 245

Opening Statement by Sponsor: Rep. Simon HD 18 introduced HB 245.

{Tape : 4; Side : A; Approx. Time Counter : 205 - 403}

Proponents' Testimony:

Roy Spilker, Real Estate Assn.

{Tape : 4; Side : A; Approx. Time Counter : 403 - 471}

Carl Schweitzer, Association of Plumbers

{Tape : 4; Side : A; Approx. Time Counter : 471 - 495}

Bill Pierce, Helena home builder

{Tape : 4; Side : A; Approx. Time Counter : 495 - 500}

Stuart Doggett, Manufactured Homes

{Tape : 4; Side : B; Approx. Time Counter : 0 - 3}

Ira Roberts, Montana Building Assn. EXHIBIT(16)

{Tape : 4; Side : B; Approx. Time Counter : 3 - 62}

Jim Brown, Administrator of Building Codes, Dept. of Commerce
EXHIBIT(17)

{Tape : 4; Side : B; Approx. Time Counter : 62 - 108}

Neal Paulson, City of Bozeman

{Tape : 4; Side : B; Approx. Time Counter : 108 - 184}

Rep. Ewer, HD 63

{Tape : 4; Side : B; Approx. Time Counter : 184 - 210}

Opponents' Testimony:

Curt Albrecht Columbia Falls building mfg.

{Tape : 4; Side : B; Approx. Time Counter : 210 - 314}

Gerald Patton, Supervisor of Building Bureau, Gt. Falls, MT

{Tape : 4; Side : B; Approx. Time Counter : 314 - 400}

Fred Craig, City of Kalispell Building Bureau EXHIBIT(18)

{Tape : 4; Side : B; Approx. Time Counter : 400 - 450}

Informational Testimony:

Janie McCall, City of Billings

{Tape : 4; Side : B; Approx. Time Counter : 450 - 480}

Questions from Committee Members and Responses:

Reps. Simon, Bookout, Stovall, Lawson, Sliter, Krenzler questions
proponents.

{Tape : 4; Side : B; Approx. Time Counter : 480 - 500}

{Tape : 5; Side : A; Approx. Time Counter : 0 - 56}

Closing by Sponsor: Rep. Simon closed HB 245

{Tape : 5; Side : A; Approx. Time Counter : 56 - 69}

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on January 26, 1999 at 8:00 A.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Rep. Bruce Simon, Chairman (R)
Rep. Bob Pavlovich, Vice Chairman (D)
Rep. Paul Sliter, Vice Chairman (R)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. David Ewer (D)
Rep. Carol C. Juneau (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Gay Ann Masolo (R)
Rep. Gary Matthews (D)
Rep. Joe McKenney (R)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 294, HB 312, HB 320, HB 328, SB 21, 1/18/1999
Executive Action: SB 21, HB 121, HB 245, HB 297, HB 302, HB 306, HB 321, HB 322

EXECUTIVE ACTION ON HB 121

Motion: REP. KRENZLER moved that HB 121 DO PASS.

{Tape : 3; Side : A; Approx. Time Counter : 54 - 69}

Motion/Vote: REP. KRENZLER moved that HB 121 BE AMENDED.

EXHIBIT(21) Motion carried unanimously.

{Tape : 3; Side : A; Approx. Time Counter : 69 - 81}

Motion/Vote: REP. JUNEAU moved that HB 121 DO PASS AS AMENDED.

Motion carried unanimously.

{Tape : 3; Side : A; Approx. Time Counter : 81 - 86}

EXECUTIVE ACTION ON HB 245

Motion: REP. SIMON moved that HB 245 DO PASS.

{Tape : 3; Side : A; Approx. Time Counter : 86 - 90}

Motion/Vote: REP. SIMON moved that HB 245 BE AMENDED. Motion carried unanimously. EXHIBIT(22)

{Tape : 3; Side : A; Approx. Time Counter : 90 - 100}

Motion/Vote: REP. SIMON moved that HB 245 DO PASS AS AMENDED.

Motion carried unanimously.

{Tape : 3; Side : A; Approx. Time Counter : 100 - 155}

HEARING ON HB 294

Opening Statement by Sponsor: Rep. Lawson, HD 80 introduced HB 294. {Tape : 3; Side : A; Approx. Time Counter : 155 - 257}

Proponents' Testimony:

Frank Cote, Dep. Director of Insurance, State Auditor

{Tape : 3; Side : A; Approx. Time Counter : 257 - 274}

Opponents' Testimony:

Roger McGlen, Independent Insurance Agents of Montana

{Tape : 3; Side : A; Approx. Time Counter : 274 - 400}

Greg Van Horrsen, State Farm Insurance

{Tape : 3; Side : A; Approx. Time Counter : 400 - 498}

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION
COMMITTEE ON BUSINESS AND INDUSTRY**

Call to Order: By **CHAIRMAN JOHN HERTEL**, on March 3, 1999 at
9:00 A.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. John Hertel, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Dale Berry (R)
Sen. Vicki Cocchiarella (D)
Sen. Bea McCarthy (D)
Sen. Glenn Roush (D)
Sen. Fred Thomas (R)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 63, 2/19/1999
HB 245, 2/19/1999
Executive Action: HB 245
HB 32
HB 211

{Tape : 1; Side : A; Approx. Time Counter : 0}

i.e. how would other contractors be affected by HB 63. He asked the sponsor to address that in his closing.

{Tape : 1; Side : B; Approx. Time Counter : 21.5}

Closing by Sponsor:

REP. SIMON closed. The International Plumbing Code was the first code they tried to go after; in fact, in 1995, there was a proposal to adopt it but the industry said they didn't like that Code. To his knowledge, as of 1999, only one state had adopted the International Plumbing Code. Plumbers were "in the trenches"; other areas weren't involved and perhaps there was more agreement among them. This bill changes the procedure and keeps these people up to date. The Department of Commerce says it's been responsive; if that is so, why has it taken so long? I submit to you, the Advisory Council, said rather than be on the International Plumbing Code, they would stay on the 1991 Uniform Plumbing Code. The Building Code's Advisory Council is largely hand-picked by the Department but they advised against adopting the International Code; however, there was a rules hearing also, though it died because there was so much opposition. Work done in a public right-of-way simply isn't in the codes and I don't understand why they would try to suggest to you that if the bill passed, they were suddenly out of business. This bill puts into statute the exact codes we're using today and is designed to encourage slowing down. It wasn't until pressure, including public input, was put on that they decided to adopt the most recent version. Some of the proposed modifications wouldn't work and when confronted, they said it was just a mistake; in spite of public testimony which objected, they said their ideas were better than those of the public. Mr. Kembel's testimony said "tentative schedule", something they hoped to do. This process has been going on for a number of years and I'm not sure they're as ready as they think they are. If you want to consider these amendments from the Department of Commerce, I would suggest you kill this bill because they tear so much away from the bill there's no sense in having it. I would urge the Committee to concur in the bill as written.

{Tape : 1; Side : B; Approx. Time Counter : 30.5}

Sponsor: REP. BRUCE SIMON, HD 18, BILLINGS

Proponents: Jim Kembel, MT Technical Council
Byron Roberts, Montana Building Industry Assoc.
Jani McCall, City of Billings
Dave Cogley, Helena
Bill Pierce, Helena Contractor
Steve Snezek, MT Assoc. of Realtors
Jim Brown, Department of Commerce
Carl Schweitzer, MT Plumbers Assoc.
Jerry Lyford, Board of Plumbers, Kalispell

Opponents: None

Opening Statement by Sponsor:

REP. BRUCE SIMON, HD 18, BILLINGS. A group of us got together to talk about what could be done within the statute, rules and regulations to make it more economical to build a house. This bill implements some of the recommendations that came from that unofficial group. **Section 1** of the bill deals with bringing the Building Codes Advisory Council into statute; currently, it isn't. This Council would be appointed by the Governor and its job would be to review changes being proposed to the codes, i.e. it would be a sounding board to discuss ideas. Through the rulemaking process, we changed the energy code by eliminating the requirement that a house with an unoccupied basement would need to be insulated. This change can save the home builder as much as \$3,000. We hope this group will continue to work toward finding additional things which will reduce the cost of home construction; however, we don't want to sacrifice health and safety. **Section 2** deals with something both the Department and industry want, i.e. create an education program administered by the Department so continuing education regarding code updates and changes can be available. This would create that opportunity and method of funding. **Section 3** deals with building code interpretations through a central registry. The information would be available to all Montana citizens. This part is important because builders build in many localities and changing the rules because of interpretations in different areas is costly because of the increased time it takes. **Section 4** sets up a method whereby the Department can improve a set of plans for model construction of a single-family dwelling. The builder

would not have to have a total plan review again if he chose to build the same home across the street. The language in **Section 5** was addressed earlier. **Section 6** provides a checklist of requirements needed when applying for a building permit and **Section 7** talks about the purpose of the building code and is a reiteration of an earlier section of the bill. Some building codes are administered by the state but cities can be the agency to provide for that.

{Tape : 2; Side : A; Approx. Time Counter : 0}

Proponents' Testimony:

Jim Kembel, Montana Technical Council. We'd like to go on record as supporting this legislation.

Byron Roberts, Montana Building Industry Association. Montana has a serious affordable housing situation. On one hand, it's driven by the low salaries and current state economy; on the other hand, it's affected by the cost of development as it pertains to regulations, taxation, fees, etc. We worked with many organizations throughout the summer and this bill contains several recommendations from that effort to remove regulatory barriers. We feel the creation of a Montana Building Codes Advisory Council, legislatively created, would provide an opportunity to buffer the Department from some of the consequences of the rulemaking process. We feel that the 5% set aside for building codes education is essential because both Montana builders and building code officials need education in building codes. We also encourage the elimination of duplicate plan-check fees. We urge the passage of **HB 245**.

Jani McCall, City of Billings. We support this bill and think it looks for solutions rather than focusing on problems. We also think it allows partnership and cooperation.

Dave Cogley, Contractor, Helena. We in the Helena Building Industry Association wholeheartedly support the bill and thank **REP. SIMON** for bringing this forward.

Bill Pierce, Homebuilder, Helena. I strongly support **HB 245** and would like to thank **REP. SIMON** for his work as well as the Building Codes Division for its past efforts on affordable

housing issues. Our objective with this bill is solutions because we as a housing industry are interested in promoting affordable housing in Montana; however, we are concerned about sound building codes and wish to comply with them. At the same time, we are asking for some redirection from the legislature to the departments which administer the codes to be more efficient and responsive to our needs.

Steve Snezek, Montana Association of Realtors. We support the bill and I would like to thank **REP. SIMON** for bringing this excellent legislation forward.

Jim Brown, Department of Commerce. We want to go on record as supporting this bill.

Carl Schweitzer, Plumbers Association. The last paragraph of the letter I'm handing each of you addresses a concern we have with the bill **EXHIBIT(bus48a08)**. Other than that, we ask favorable consideration for the bill.

Jerry Lyford, Master Plumber, Kalispell. I support the bill and the amendment offered by Dick Grover via **Carl Schweitzer** because the success of the Advisory Council includes its ability to have some authority.

Opponents' Testimony: None.

{Tape : 2; Side : A; Approx. Time Counter : 8}

Questions from Committee Members and Responses:

SEN. BEA MCCARTHY said Section 1 didn't indicate how often the Building Codes Council would meet. **REP. BRUCE SIMON** said it would meet as necessary; however, he didn't want them meeting "just to be meeting." The need for meeting would be driven by the issues.

SEN. MCCARTHY asked if the language in Section 2, Lines 12-13, needed to be stronger. **REP. SIMON** said the both the builders themselves and building officials want the additional education, i.e. there is a need for on-going education in both areas.

SEN. MIKE SPRAGUE asked if "statewide" on Page 3, Line 8, would end the territorial feelings that now exist. **REP. SIMON** said this bill dealt with building codes, not planning and zoning.

SEN. SPRAGUE commented zoning was relative to building and asked if the bill addressed that. **REP. SIMON** said it didn't, other than Title 50-60 in the codes had a section on manufactured housing.

SEN. SPRAGUE commented taxation made housing unaffordable for many people and asked if their meeting addressed that. **REP. SIMON** said the bill didn't deal with taxation; however, perhaps it would be dealt with in the property tax area.

SEN. SPRAGUE asked if the Montana Building Industry Association recognized there was a serious affordable housing/taxation dilemma. **Byron Roberts** said they did and they were looking at different types of taxation.

SEN. JOHN HERTEL asked for comment on the amendment suggested by **Carl Schweitzer**. **REP. SIMON** said he would leave the decision to the Committee.

SEN. SPRAGUE commented he didn't see anything about remodeling and wondered if that was intentional. **REP. SIMON** said it didn't specifically speak to "remodeling" but the interpretation would have a strong impact on it.

Closing by Sponsor:

REP. SIMON closed. I think the Committee well understands **HB 245** and the bill has strong support across the lines. I would urge your support.

{Tape : 2; Side : A; Approx. Time Counter : 18.9}

EXECUTIVE ACTION ON HB 245

Discussion:

Bart Campbell said the amendments as suggested by **Carl Schweitzer** would no longer make it an advisory body but it would become a policy-setting council.

SEN. VICKI COCCHIARELLA said there were major problems with the building codes division and they included communication, training, unpredictability, people being uninformed, etc. She was afraid the Advisory Council would be basically a token and she hoped if nothing was done this session, something should be done next time. We need to ensure the Building Codes people are empowered to do the job they're supposed to be doing.

SEN. MCCARTHY said it was in code they needed to meet at least once a year, and additionally, if needed.

SEN. SPRAGUE suggested letting them get organized and then in two years a recommendation could be made.

Motion/Vote: **SEN. COCCHIARELLA** moved that HB 245 BE CONCURRED IN. Motion carried unanimously. 7-0

SEN. MIKE SPRAGUE will carry the bill on the Senate Floor.

EXECUTIVE ACTION ON HB 32

Motion: **SEN. MCCARTHY** moved that HB 32 BE CONCURRED IN.

Motion: **SEN. MCCARTHY** moved that AMENDMENTS HB003201.abc BE ADOPTED.

Discussion:

Mr. Bart Campbell, Legislative Assistant, explained the amendments **EXHIBIT(bus48a09)**, saying the language removed the unnecessary amendments which were added in the House.

Motion/Vote: **SEN. MCCARTHY** moved that AMENDMENTS HB003201.ABC BE CONCURRED IN. Motion carried unanimously 7-0.

Motion/Vote: **SEN. MCCARTHY** moved that HB 32 BE CONCURRED IN AS AMENDED. Motion carried unanimously 7-0.